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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/394,661

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MASAAKI TSUJI

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7590

09/21/2006

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EXAMINER

RIMELL, SAMUEL G

ART UNIT

PAPER NUMBER

2164

DATE MAILED: 09/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/394,661

Applicant(s)

TSUJI, MASA AKI

Examiner

Sam Rimell

Art Unit

2164

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-9 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 3-9 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.


SAM RIMELL
PRIMARY EXAMINER

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application
- ☐ Other: ____.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 3-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Kawamura et al. (U.S. Patent 6,075,920).

Claim 3: FIG. 1 of Kawamura et al. discloses a control unit (20) which controls a first generating portion (9) which generates time code information. The control unit (20) itself is a second generating portion that generates non-time-code information, such as sector number, copyright management information, track number, application ID number, application information and layer information (see right arrow extending from control unit). The time code information and non-time-code information are each components of subcode that are entered into a subcode generator (11) which outputs subcode. The control unit maintains controls over the output of the time code information and non-time-code information, and thus can be read as a selecting portion which selects output. The control unit (20) processes first and second commands. The first command is from the control unit (20) to time code generator (9) to generate time codes (col. 9, lines 24-25). The second command is a command received and processed by the control unit (20) to generate the non-time code information (col. 10, lines 24-32). The commands are inherently saved (as instructions) within portions of memory within the system of FIG. 1, otherwise the control unit would not be able to issue any control commands to other components. Additionally, it is observed that the time code information has a plurality of

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components (FIG. 11) and the non-time code information has a plurality of components (sector number, copyright management information, track number, application ID number, application information and layer information, as seen in FIG. 1). Also note table of FIG. 6, which is a data table in memory having separate table locations (memory areas) for metadata (commands) associated with the time code data and non-time code data.

Claim 4: The second generating portion (control unit) outputs six types of data, and can thus be said to comprise a plurality of generating portions. Also note the table of FIG. 6, which is a data table in memory having separate table locations (memory areas) and metadata (commands) for time code data and non-time code data.

Claim 5: The time code generating portion (9) and the generating portion indicated by the right arrow extending from the control unit (20) are readable as toggle generating portions since they generate subcode components which are delivered to the subcode encoder (11). The subcode can be said to “toggle” in the sense that it is created by changing a field of bits to a different field of bits. For example, FIG. 18 indicates that the subcode for the track number occupies a field having a length of 2 bytes. The field is inherently changed when the field gets encoded with track number information. Thus, the subcode field containing this information can be said to toggle between an uncoded “low state” and an encoded “high state”. The control unit (20) reads as the selecting portion since it maintains control over the entry of subcode components into the subcode encoder (11).

Claim 6: The amount of time required to change from the un-coded state to the encoded state corresponds to the claimed period.

Claim 7: The control unit is the selecting portion since it maintains control over the entry of subcode components, which in turn generate encoded output which is written to a data recoding medium (19), as seen in FIG. 1.

Claim 8: The first command is from the control unit (20) to time code generator (9) to generate time code information. The time codes have subcomponents of hours, minutes and seconds, as seen in Fig. 12.

Claim 9: The first generating portion (9) and second generating portion (20) are physically independent of one another. The claim also recites a method of not having the second generating portion generate any data while the first generating portion is generating data. This appears to be a method step, and does not carry patentable weight in the context of an invention addressed to an apparatus.

Remarks

Applicant's arguments have been considered.

Applicant's primary argument is that Kawamura et al. allegedly does not teach commands which are written in to areas of memory, noting that this feature was found to be inherent by the examiner. Examiner maintains that the feature is inherent. In order for the control unit of Kawamura et al. to have any capability of sending control commands, it must be programmed to do so with written instructions which execute those commands. These written instructions to execute commands are what are understood to be the "commands written collectively" to areas of memory which are referenced in claim 3.

Applicant also argues that Kawamura et al. does not disclose a toggle generating portion which generates toggling data alternating between a low state and a high state. Examiner

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maintains that these features exist in Kawamura et al., and the reasons for these findings are outlined in detail in the discussion associated with FIG. 5.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Sam Rimell at telephone number (571) 272-4084.



Sam Rimell
Primary Examiner
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